1899-003 Chancery Causes: G. C. Jessee &c vs. Elkanah Flanary &c
Lee Co.

Stallard, Scott, Olinger, Slemp, Orr, Napier, Young, Rivers 1 Plat

CA · Estate Dispute
+ - Property

To the Hon. W. T. Miller, Judge of the Circuit Court of Lee County, Virginia:-

Humbly complaining , your orators and oratrix, G. C. Jessee, S. C. Stallard, and Rebecca Stallard, would respectfully represent and shew unto your honor, that James Flanary was in his lifetime seized and possessed of a valuable tract of land, lying and being in the said county, in the neighborhood known as Yokum Station, and adjoining the lands of Creed F. Flanary, R. E. Litton and the said S. C. Stallard, containing one hundred and forty-five acres, more or less, and on which he resided at the time of his death, and for many years prior thereto; and being so thereof seized and possessed sometime in the present year departed this life intestate, leaving no widow, but leaving your oratrix, Rebecca, who married your orator, S. C. Stallard, Amanda, who married John R. Litton; Elizabeth, who married Clark C. Slemp; Nancy, who married John W. Scott; Mary, who married J. C. Olinger; and Elkanah Flanary, his surviving children and heirs at law, and H. L. Flanary, Elizabeth A. Orr, nee Flanary, and Rebecca A Flanary. children and heirs at law of Thomas Flanary, deceased, who was a son of the said James Flanary, and Alonzo Flanary and Ballard Flanary, children and heirs at law of William Flanary, deceased, who was also a son of the said James Flanary, and Charles E. Flanary, a son and heir at law of Henry Flanary, deceased, who was likewise a son of the said James Flanary, deceased, his grand children and also his heirs at law, to all of whom the said real estate descended.

Your orators, G. C. Jessee and S. C. Stallard, further state that they have purchased and are the owners of the interests of Amanda Litton, and her husband, John R. Litton; Elizabeth Slemp and her husband, Clark C. Slemp; H. L. Flanary, Elizabeth A Orr and her husband, W. A. Orr, Jr., and Rebecca A. Flanary in said real estate, a copy of their deed for the same is filed as part hereof marked "A," making three shares out of nine therein owned by them, and your oratrix is the owner of her own share. And your orators and oratrix further state that the said real estate is as they believe susceptible of partition among the parties entitled thereto according to their respective interests therein.

In tender consideration whereof and for as much as your orators and oratrix are remediless in the premises save by the aid of a court of equity, where matters of the kind are alone and properly cognizable, they pray that the said Nancy Scott, and John W. Scott, her husband, Mary Olinger and J. C. Olinger, her husband; Elkanah Flanary; Charles E Flanery; Rebecca A Flanery Alonzo Flanary; and Ballard Flanary be made the parties defendants to this bill and required to answer the same, but not on oath, that being waived; that the proper Guardian Ad Litem be assigned the said Rebecca A Flanery Alonzo Flanary and Ballard Flanary, who are infants, to defend their interests in this suit; that the said real estate be divided between the parties entitled thereto, and the portions of your orators-- three-ninths thereof be allowed them, and the portion of your oratrix--one-ninth thereof be allowed her; and that the said four shares in said xxx real estate be laid off and assigned to your complainants adjoining each other and adjoining their other lands that adjoins said Flanary xx tract, all of which can be conveniently done and without impairing the value of the other shares or interests in said real estate; that proper process may issue and that such other further and general relief may be afforded your complainants as the nature of their case may require, or to equity shall seem meet. And your orators will ever pray, etc.

Orr, Blankenship & Ewing ..... P.Q.

*# As before stated your orators have purchased the interest of Rebecca A Flanery along with that of her brother D. L. Flanery, and her sister Elizabeth A Orr, but the said Rebecca A Flanery being a minor, only about 19 years of age has not and can not answer. Your orators & oratrix allege that the said sale is advantageous to her, and they ask a confirmation thereof and that the same be conveyed to them by a Commissioner appointed for the purpose, but if your honor should not be of that opinion upon a hearing of the cause, then they ask that her interest be laid off and assigned her adjoining the interests of her said brother & sister purchased by your orators as aforesaid.

G. C. Jessel et als.

vs Bill in Chancery.

Elkanah Flowers et als

Orr, Bigbee & Ewing, S.S.

1875- 1st Oct Rules bill filed Spa [illegible]

11 2nd Oct Rules [illegible] Copy [illegible]

[illegible] and cause set for hearing by Stiffo

1879. March 5. Decree final.

Stiffo Costs

C.	$7.24
S	30.00
Atty	15.00
C & C	10.50
Costs	4.00
Co C	4.50
Friendly	3.00
	$73.24
8 Ck.	2.75
	55.99
Comrs	30.00
G. S. L.	6.00
Wit. R.	.98
	$91.97

To the Honorable W.T.Millier, Judge of the Circuit Court for Lee County,

The answer of Alonzo Flanary, Ballard Flanary and Rebecca A. Flanary, infants under the age of 21 years, by C.T.Duncan, their gua rdian ad litem, to a bill exhibited against them and others i n this honorable court by G.C.Jessee et als.

Respondents say that they are infants of tender years and that they are not sufficiently advised of their best interests i n said case, so as to ask that any particular or specific actn ti on be taken in said case. They are advised that a court of chancery is the peculiar guardian of the rights of infants, and they place their cause in your honor's hands, confidently rely- i ng upon the fact that your honor as a chanceelor will fully protect their interest.

And now having fully answered they pray to be hence dismissd

C. T. Duncan

Guardian ad litem for said Infant. Defts

Alonzo Flannery et al
vds. } Ans. by G.A.L.
G. C. Jessee et als

2nd C to Rules 1895
Answer of Infant
Defendants by G. L. Dun
can their Guardian ad
litem filed.
A B Wurtsey Clerk

G.C.Jessee et als. Plaintiff.

vs. In Chancery.

Elkanah Flanary et als. Defendants.

To the Honorable W.T.Miller, Judge of the Circuit Court of Lee County, Virginia:

The joint demurrer and answer of Elkanah Flanary, Nancy Scott and John W.Scott, her husband, Mary Olinger and J.C.Olinger, her husband, and Charles E.Flanary to a bill exhibited agai nst them and others in this honorable court by George C.Jessee and others.

Respondents say that complainants' bill is not sufficient in law to call upon them to answer in this honorable court, but that there is good cause of demurrer thereto, and they demurrer accordingly and pray judgment of their said demurrer, &c. and not wai ving said demurrer, but relying and insisting thereon, should other and further answer be required of them, answering, they say:

That it is true that their ancestor, James Flanary, recently departed this life in this county; that at the time of his death, he owned a small, but very valuable tract of land, situated in Yokum Station Magisterial District, the exact amount of acreage contained in said farm is unknown to your respondents, but they suppose that it contains 140 or 150 acres. Respondents further say that the complainants have correctly set out the heirs at law of the said James Flanary, to whom said lands descended. Respondents know nothing of the alleged purchases made or claimed to be made by complainants, G.C.Jessee and S.C. Stallard, they therefore nrither admit nor deny that said purchases have been made, but call for full and complete proof thereof. It will be noticed from the allegations of said bill and it is also true as a matter of fact that the said James Flanary left surviving him nine heirs being either children and or grandchildren who are entitled to participate in said partition.

Your respondents deny that said tract of land is susceptible of partition in kind among the parties entitled thereto, without great and material injury to the parties interested therein. As above stated there is only a small number of acres and when partitioned will not be over sixteen acres to the full share, and as to Alonzo and Balland, the children and heirs at law of William Flanary there will only be something like 8 acres each. This tract of land if sold, can be sold for a full price. Your respondents will in this connection say to your honor that said tract of land, if sold as a whole, will bring $3500.00, about $390.00 per share, and when partitioned, in the manner in which the complainants want it done, it will, in their opinion, be impossible for your respondents and the heirs of William Flanary to sell their shares for as much as $300.00 a share, even all selling together. And the land is so situated that to sell a single share after partition would be almost an impossibility. Your respondents have been offered for said tract of land altogether the sum of $3500.00, and they believe and here assert that it is reasonably worth that sum, but if partitioned, they know of no person to whom they can sell the five shares for as much as $1500.00. In fact it would be undesirable to anybody, but as a whole it is one of the most desirable farms of its size in the County, and will easily command its full value. Your respondents think and they here assert that the only way to fully protect the interest of each one in said tract of land is to sell the same and partition the proceeds among those entitled thereto, and this they pray may be done.

And now having answered, respondents pray to be hence dismissed &c.

Duncan & Hyatt, P.Q

Elsmah Flanary et als.

vs. Chancery.

Answer of
Elsr. Flanary -
Chas. Flanary -
Nancy Scott &
John Scott.
J. C. Olinger &
J. C. Olinger.

G. C. Jesse et als.

Filed October 9th 1875
Oct 9th 1875.
A. J. Murray
Clerk

G. C. Jessee, et als, Plaintiffs,
vs. } In Chancery.
Elkanah Flanory, et als, Defendants.

This Cause came on this day to be heard upon the papers formerly read herein, the report of George W. Blankenship, Special Commissioner, filed in the cause March 1st 1899, & was argued by Counsel—

Upon consideration thereof, and it appearing from said Commissioners report & exhibits thereunto filed, & the same being unexcepted to, that G. C. Jessee, the purchaser of the interest of Rebecca Ann Flanory in the land in the bill & proceedings of this cause mentioned & described & sold by said Commissioner to said G. C. Jessee, has settled with & paid to said Rebecca Ann Flanory, now Rebecca Ann Body, the purchase price he bid off said land for at said Commissioners sale, & that said Rebecca Ann Body, nee Rebecca Ann Flanory, who was an infant under the age of 21 years at the time of the

institution of this suit & at the time of said sale, is now over the age of 21 years & has the right to receive from said Jessee & settle with him for the purchase price of said land,

It is adjudged, ordered & decreed that said Commissioner's report & the settlement made between said G.C. Jessee & Rebecca Ann Flanary, now Rebecca Ann Bosley & the same are hereby confirmed & said Commissioner, George M. Blankenship is hereby directed to turn over to said G. C. Jessee his notes executed to him with J.C. Jessee, as security, for his said purchase of said Rebecca Ann Bosley's — nee Rebecca Ann Flanary — interest in the land sold by him & ~~to convey to said G.C.~~ the Court doth hereby appoint said George M. Blankenship, a Special Commissioner, who shall make & execute to said G. C. Jessee a deed with covenants of Special warranty — to the land sold by

said Commissioner Blankenship to said Jessee, to-wit: The interest of the said Rebecca Ann Flannery, now Rebecca Ann Body; & he will report his action hereunder to this term of this Court. And the said Blankenship, Special Commissioner as aforesaid having now filed the said report & deed and the said report being unexcepted to, the same is hereby confirmed, & the said G. C. Jessee may withdraw said deed from the files in this cause. And the Court doth further adjudge, order & decree that George M. Blankenship, Special Commissioner, recover from the said G. C. Jessee the sum of $5.00 for the execution of the said deed, and if necessary he may have execution therefor.

And the cause is stricken from the docket.

G. C. Jessee, et als

vs. } In Chancery.

Elkanah Flanary, et als

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Decree Final.

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Enr. C. O. B. No 6 p. 239

Enter this Decree—

N Zinn

March 7, 1899.

//

G. C. Jessee et als. Plaintiffs } In chancery.
against
Elhanah Flanery et als. Defendants }

This cause came on again to be heard upon the papers formerly read in the cause, and the report of sale of Geo W Blankenship, Commissioner, filed in the cause February 7th 1896, and to which there are no excepitions, and the report of partition by L. M. Carnical, H. C. Jaslyn, W. G. Bishop & D. S. Reasor Commissioners, filed in the cause Feb' 17th 1896, and to which there are no exceptions, and was argued by Counsel, On consideration thereof it is adjudged, ordered and decreed that said reports be and are hereby confirmed, And the Commissioner Geo W Blankenship will collect the purchase money for the interest of the infant, Rebecca A Flanery, sold by him when due, or when the purchaser may desire to pay it, and pay the same to the Guardian of said infant, and when the purchase money is fully paid, said Commissioner will convey by deed with Covenants of special warranty, to the purchaser, said interest, and report his action here-under to this Court at some future term.

And as to the said report of partition, further adjudged decreed it is ordered that the parties, each to whom said land was assigned take and hold the same free from any claim of the others, as set out in the said report and plat thereunto, and that the plaintiff G. C. Jessee take and hold

lot No 3 assigned by said Commissioners to Rebecca A Flanery, said Jessee having purchased said interest at a Commissioner's sale in this Cause, which sale is herein confirmed, and that R E Litton take and hold the residue of said land, outside of lots Nos 1, 2, 3 & 4, it appearing from the said report and the deed to said Litton filed with said report that said Litton has purchased the interests of Nancy Scott, Mary Olinger, Elkanah Flanery and Charles E Flanery being 4/9 of said tract, and that said Commissioners have did not partition said residue but left the same for said Litton, in one body, under his purchase from said heirs, And it is further ordered that said report and plat and a copy of the decree appointing said Commissioners, and a copy of this decree, be recorded in the Clerks office of the County Court of this County, in the book kept for the recordation of deds, and it is adjudged ordered & decreed that the parties to this suit, R. E. Litton, pay the Costs of this suit ~~in proportion~~ according to their written agreement filed with the report of said Commissioners marked "agreement," that is, that R. E. Litton pay $24 00 on said costs, and that G. B. Jessee pay one half of the costs of the depositions taken in the cause and 4/9 of the Clerks & Sheriffs fees, and of the legal attorney's fee, and that Charles E Flanery, Elkanah Flanery, John W Scott, J. B. Olinger, and the Guardian of Alonza Flanery & Ballard Flanery each pay 1/5 of the balance of said costs. And the Cause is continued.

G. B. Jessee Trs
vs Decree No 2.
Elkanah Flanery et als.

Enter this decree.
M V, P.C.C.
May 7th 1896.

O. B. C. 369

(1)

G. C. Jessee, et al., Plaintiffs.

Against--(----In------Chancery.

Elkanah Flanary, et al., Defendants.

This cause came on to be heard upon the bill of the Plaintiffs and exhibit therewith, the demurer and answer of the adult defendants, and the answer of the infant defendants by C. T. Duncan their Guardian Ad Litem, and joinder in said demurer and replications to said answers, and upon the depositions of witnesses, and was argued by counsel: On consideration thereof said demurer is overruled, and it is adjudged, ordered and decreed that L. M. Carmicheal, H. C. Joslyn, W. G. Bishop and D. S. Reasor, who are appointed commissioners for the purpose, any three of whom may act, do go upon the land in the bill mentioned, being the tract of land owned by James Flanary, deceased at the time of his death, and after being first duly sworn for the purpose, do partition the said tract of land among the parties entitled thereto, according to their respective interests therein and lay off and assign to the Plaintiffs, G. C. Jessee, S. C. Stallard and Rebecca Stallard, their interests in said tract, being three-ninths and two-thirds of one-ninth thereof, adjoining each other and adjoining the other lands of the said S. C. Stallard, and that they lay off and assign to the infant Rebecca A. Flanary her interest in said tract--being one-third of one-ninth thereof--adjoining the said interests of the Plaintiffs, if partition can be conveniently made in that way. Said commissioners will make a plat and report of said partition and file the same in the papers of this cause at least ten days before the next term of this court; and they will also at the same time report to this court whether or not said partition was conveniently made, and whether in their opinion the same should be confirmed.

And the court being of opinion from the evidence that a sale of the interest of the infant Rebecca A. Flanary, will be advantageous to her, it is further adjudged, ordered and decreed that George W. Blankenship, who is hereby appointed a commissioner for the purpose, do proceed to sell said interest at the front door of the Court House of this county, on some court day, to the highest bidder on a credit of one and two years time, bearing interest from date, having first advertised the time, terms and place of sale, for at least thirty days by written advertisements posted at the front door starting the sale of the said interest at the sum of $100.00, this being 1/3 of the amount paid by G. C. Jessee, S. C. Stallard and Rebecca Stallard's Bid.

of the Court House of this county and in the vicinity of said land. Said Commissioner before selling will execute bond ~~before~~ before the Clerk of this Court in the sum of $250.00 conditioned according to law, and will report his action hereunder to the next term of this court. He will require at said sale enough cash paid in hand to pay the commissions on sale. And the cause is continued.

G. C. Jesse, et als.

vs. } Decree.

Elkanah Flowers, et al

W.B. 2284

Recorded in Deed
Book 32 Page 352

Enter this Decree

Nov. , 1895.

Virginia

At a circuit Court continued and held for Lee County at the Court-house thereof on Wednesday Nov 13th 1895.

G. C. Jessee Pltff
Against } In Chancery
Elkanah Flanary et al Defts

This Cause Come on to be heard upon the bill of the plaintiff and exhibit therewith ## ##### And the Court being of opinion from the evidence that a Sale of the interest of the infant Rebecca A Flanary will be advantagious to her it is further adjudged ordered and decreed that George W Blankenship who is hereby appointed a Commissioner for the purpose do proceed to Sell Said interest at the front door of the Court-house of this County, on Some Court day, to the highest bidder on a credit of one and two years time bearing interest from date, Starting the Sale of Said interest at the Sum of $100.00 this being G. C. Jessee's bid having first advertised the time, terms and place of Sale for at least thirty days by written advertisements posted at the front door of the Court-house

of this County, and in the vicinity of said lands. Said Comr. before Selling will execute bond before the Clerk of this Court in the Sum of $250.00 conditioned according to law, and will report his action hereunder to the next term of this Court. he will require at said Sale enough cash paid in hand to pay the Commissions on Sale, and the Cause is Continued.

A Copy Teste

A B Munsey Clerk

B. C. Jerrell
Copy of Decree
Col Kanawha Chancery

Executed Nov 27-75
By delivering a
Copy of the
Office Sheriff
Williamson W. Va.
G. W. Blankenship
Dpty P. M. Sheriff
$3.00

Copy for
G. W. Blankenship

Virginia

at a circuit Court continued and held for Lee County at the Court-house thereof on Wednesday Novr 13th, 1895.

G C Jessee Pltff
against
Elkanah Flanary et al Defts } In Chancery

This cause come on to be heard upon the bill of the plaintiff and exhibits therewith the demurrer and answer of infant defendants by C. T Duncan their Guardian ad litem, and joinder in said demurrer and replication to said demurrers, and depositions of witnesses, and was argued by Counsel. On consideration thereof said demurrer is overruled, and it is adjudged, ordered and decreed that L M Carmical N C Joslyn, W G Bishop and D S Reasor who are appointed Commissioners for the purpose, any three of whom may act, do go upon the land in the bill mentioned being the tract of land owned by James Flanary deceased at the time of his death, and after first being duly Sworn for the purpose do partition the said tract of land among the parties entitled, according to their respective

interests, and lay off and assign to the plaintiffs S L Jessee & S L Stallard Rebecca Stallard their interests in said tract being three ninths and two thirds of one ninth thereof, adjoining the other lands of the said S L Stallard, and that they lay off and assign to the infant Rebecca A Flanary her interest in said tract being one third of one ninth thereof adjoining the said interests of the plaintiffs if partition can conveniently made in that way. Said Commissioners will make a plat and report of said partition and file the same with the papers of this cause at least ten days before the next term of this Court, and they will also at the same time report to this Court whether or not said partition was conveniently made, and whether in their opinion the same should be confirmed ## ## ## ## And this cause is continued

G. C. Jessee

vs

Copy of Decree

Elkanah Flanaryetal

Executed Nov 28th 98
By Delivering an
Office Copy of the
within Summons to
L. M. Carmichle
H. C. Joslyn and
Sending Copy by
Joslyn to W. S. Bishop
not further Executed
Wm P. Weston
S. C.

Copy for. L M Carmied
H C Joslyn. W S Bishop.
and D S Reason.
C $1.50

The depositions of R. W. Orr & others

taken, pursuant to agreement, at Dryden Va. before the undersigned Notary Public for Lee County Va, on the 30th day of October 1895, to be read as evidence in behalf of the plaintiffs in a certain suit in Chancery pending in the Circuit Court of said County in which G. C. Jessee et als are plaintiffs and Elkanah Flannery et als are defendants

Present.—C. T. Duncan Counsel for Defts. and Guardian ad litem for the infant defendants.
and James W Orr of Counsel for Plffs.

The said R. W. Orr a witness of lawful age and being first duly sworn deposes and says.

Ques 1. What is your age, occupation & residence?

Ans Aged 48 years, occupation, a farmer; live at Dryden, Virginia.

Ques 2. Are you acquainted with the farm owned by James Flannery dec'd, and if so state the extent of your acquaintance?

Ans. I know the said farm have been over a portion of it. Have been on it recently

Ques 3. From your knowledge of this farm do you think it could be conveniently partitioned into nine equal shares?

Ans I think it could be divided as easily into 9 shares as any farm I know of. of the same size and state and bounds.

Ques 4. In what manner do you think this can be best done?

Ans I think it could be best done by running lines North and South in order to give access to the main road to each share.

Ques 5- Do you think the partition could be fairly made by laying off 4 shares on the west side adjoining each other, and the remaining five shares on the Eastern side adjoining each other?

Ans. I think it could.

Ques 6 Do you think this could be done without any material injury to the interest of any of the parties concerned?

Ans Yes. I think it could be done

X Examined

1 What would be the fair cash value of one of the five shares on the East end of said farm, by its

self. on the usual terms of credit any 1, 2, & 3 years with interest from date.

Ans. I think $322.00 - if there be 148 acres in the whole tract; I put it at $90.00 per acre for whole tract.

2 question. Do you think the shores laid off to them selves, would each sell for one ninth as much as the whole tract taken together would sell for.

Ans. Yes. I do;

3 Suppose said tract of land can be sold as an entirety for $3500.00 then if the shores as laid off would only be worth $322.00 it would be detrimental to the interests of said parties to have said land partitioned would it not?

Ans. Yes.

4. How much is the house on said land worth. I mean the dwelling house and buildings attached thereto.

Ans. I expect $250.00

5 What ~~consideration~~ [illegible] land would all on his get, who happened to get his shore laid off including said

house and buildings.

Ans. He ought to have from 5 to 6 acres.

6 A share of 5 or 6 acres, with said house and buildings on it would not be of much practical value, would it a person who owned no other lands adjoining it.

Ans. It would not to live on, but would be worth its value to sell.

7 How many of said shares would have water on them, supposing the land to be divided by laying off 4 shares on the west side, and the balance divided into 5 parcels.

Ans. There would be 4 shares, which would have no water, neither on them they were give access to the springs ~~The above springs~~ I make this answer under supposition that the springs at the house would fall on the four shares.

8 Now is it not a fact, that the market able value, and readiness of sale of a small parcel of land, is very

materially lessened, by giving to other shares a water right on it.

Ans. Yes, it would be lessened.

9. Could not said land be partitioned East and west and thereby both it divide the good and bad lands on said farm.

Ans. No, I think not.

10 Is not the land on the west side of said farm, much the best land on said farm.

Ans. There is one field on the west side that is a little above the average.

11. What do you think will be the length and width of one of said shares

Ans. I don't Know

12 give me your best opinion, formed from hunting over said land the distance from the north to the south line of said tract?

Ans. One half of a mile

Re Examined

Ques. Is it not a fact that a person on that farm could obtain water almost any where, that is on almost any share, by a well or cystern and by ponds. for live stock?

witness claims
1 days attendance
1.50

Ans Yes; it has a day & date
And further this deponent
saith not. R W Orr

Wm A Orr Jr. another witness of lawful age and being first duly sworn deposes and says:

Ques 1 Are you one of the parties to the deed of bargain and sale of an interest, one share, in the James Flanery tract of land, to G. G. Jessee & S. C. Stallard?

Ans I am.

Ques 2. Was the sale of said share at the price stated in the deed, $300-, cash in hand?

Ans It was.

Ques 3. Was the interest Rebecca A Flanery 1/3 of 1/9 contracted along with that of your wife, Elizabeth A Orr, nee Flanery, and their brother H. L. Flanery.

Ans. It was

Ques 4 Do you consider said sale at a fair price and the sale of Rebecca A's interest advantageous to her, she being an infant?

Ans. I think so

Ques 5 Did you & H. L. Flanery act for her, in said sale and do you for her ask its confirmation.

Ans We did, together with my wife and Mary Flanery mother of Rebecca Flanery.

Ques 6 Are you acquainted with the tract of land in controversy, and do you think it can be conveniently partitioned among those entitled thereto, and if so in what manner?

Ans I am slightly acquainted with the land. and think it can be partitioned by running the lines north and south so as to let each share have access to the public road. I think the plaintiffs share can be laid off adjoining their other land in such a way that would not injure the sale of the other portion of the tract.

X Examination

1 You say that you think that $300 per share is a fair value of each share of said land. Now does not said deed show that some signing said deed got more than that some for his share.

Ans It does.

2 If said land could be sold for $3500.00 as an entirety, which in your opinion would be most to the interest of the parties interested in said land to divide it between them or to sell the

land and divide the money.

Ans. I think the land could be divided in such a way as would be of little advantage to all concerned

3 A sale at $3500.00 would give each heir $388.88 worth of land would it not.?

Ans. It would

4 Then how do you make it that Rebecca Flannery's interest will be enhanced by selling the share in which she is interested at $300

Ans. Because when the share was sold in which she was interested. She was selling her part of it so much cheaper & deemed it to her interest to sell the whole share for for $300.00

5 What in your opinion is the fair marketable value of each one or either one of the 5 shares if laid off on the east side of said tract of land by Surly.

Ans. The whole five shares taken together I think might sell for $300 per

share, but to cut out only one
I dont know that it would sell
for so much.

And further this deponent saith
not. W. A. Orr Jr.

wit claims 1 day attendance 1.50 cts

The foregoing deposition of W. A. Orr Jr., was taken, subscribed and sworn to before me, by consent of parties, he being the Notary taking the depositions of the other witnesses, Given under my hand, Oct 30th 1895.

R. W. Orr. N.P.

The further taking of these depositions is adjourned, until tomorrow morning 9 oclock at the same place. Oct 30th 1896.

W. A. Orr Jr., N.P.

Met pursuant to adjournment Oct 31, 1895.

A. D. Litton another witness of lawful age and being first duly sworn deposes & says.

Ques 1. Please state your age, occupation & residence?
Ans My age is 41 years. occupation a farmer, residence Jackson Station.

Ques 2. Are you acquainted with the James Flaneny tract of land and if so how long have you known it, and how far do you live from

it, and do you own land where you live?

Ans. I have known it since I was a boy. Live something like a ½ mile and half from it. I own the land where I live. My father gave me part of it; I purchased part of it.

Ques 3. From your knowledge of the Flowery farm and the value of land in the community what do you think would be a fair price for said farm?

Ans. I would think somewhere from $2600.00 to $2800.00

Ques 4 Do you think the tract could be conveniently partitioned into nine equal shares, quality quantity &c considered?

Ans. I suppose it could as much so as any farm.

Ques 5 How do you think this could be most conveniently done?

Ans. By running from the Big Road to the Knob, in a northerly and southerly direction

Ques 6 If partition was made in this way, do you think four shares could be laid off to the plaintiffs on the west side adjoining S. C. Stallards other land.

and the remaining five shares on the other side without material injury to the interests of the owners of the five shares?

Ans. I think it could be done.

Ques 7 Do you think the five shares thus laid off could probably be sold for their fair value?

Ans. I dont see why they should not be.

X Examined.

1 Dont you think that Town could be sold to better advantage, as a whole, than it could in parcels, if divided into nine parts, each independent of the other.

Ans If you should strike a buyer who would buy the whole, it might sell for more: if the shares were laid off equal in value I dont see why they should not sell for amount

2 What do you think would be the marketable value of one share ~~from~~ the middle share of the five laid off so stated

by you in one of your answers above, taken by itself.

Ans. If the said farm of equal value, I don't see why it should not sell for an average or something like it.

3 Give me your estimate of its value in dollars & cents.

Ans- From $288.00 to $311.00

4 Would you give that sum for one of those five shares by itself

Ans I am no buyer for the whole or any part of it.

5 If said tract of land as a whole could be sold for $3500.00 which would be most advantageous to the heirs of James Flanary to divide the land between them or sell the land and divide the money.

Ans. If it could be sold for said amount it would be more advantageous to the heirs than to cut it up. I believe

6. If said land could be sold for $3150.00 as a whole dont you think the interest of the five heirs would be promoted by a sale. in other words do you think any show

5 If you were not one of the heirs how would you consider it.

Ans I would consider it a damage & cause to a disinterested party & have such a right

And further this deponent saith not R. E. Litton

wit claims
1 days attendance
50 cts

D. S. Litton another witness of lawful age, and being duly sworn deposes and says:

Ques 1 Please state your age, residence and occupation?

Ans. My age will be 76 years the 4th day of Dec next. My residence at present is at Hickory Flats though a great portion of the time I am on the old farm in Yorktown Station where I have lived since 1861 until the last year or two. This farm in Yorktown Station adjoins the James Flannery land nation on the west side or north west and extends for some distance along the north bounds of said land

Ques 2. Are you acquainted with the James Flavery tract, and if so how long have you known it?

Ans. Yes, sir, am as well acquainted with it as I could farm since 1861. Have been over it hundreds of times

Ques 3. What do you consider a fair price for said tract?

Ans. I think the place might done say be sold for $3000.00 Though I would not give that myself.

Ques 4 Have you had any experience as Commissioner under decree of Court, in partitioning lands in this County, if so how much?

Ans. I have in a good many cases. Though I could not tell the number of times

Ques 5 From your acquaintance with said James Flavery tract, and your experience in such matters, do you think this tract could be conveniently partitioned into 9 equal shares quality, quantity &c considered?

Ans. I do; I think it could be done so as to give very good justice.

Ques 6 How could the partition, be most conveniently and fairly made?

Ans By running the lines north

and Sarah

Ques 7. If the partition was made in that way could four shares be laid off to the plaintiffs on the west side adjoining each other & adjoining the other lands of S. C. Stallard, without material injury to the interest of any of the parties?

Ans. I think so if the same was properly and fairly done

Ques 8. Did you sell a share of this land to plaintiff Jesse A Stallard, and did you have any conversation with John W Rivers about the sale of said tract to him before you sold said share and if so please state said conversation?

Ans. I did sell the share of John Litton and wife after I had a conversation with said Rivers I was engaged in fixing up wire fence when Rivers rode up. We got to talking about the land, and I asked him why he did not buy it and told him I thought it might suit any poor man He then said he would not give the price they were asking. Then says he "what would you take

for it." And I replied that I would take for the interest I represented at the sale of $3000.00 for the whole And that I thought maybe the balance would take that. Then he said he would not give that amount. Then I asked him what he would give. He said he would give $2800.00 I told him he would never get it at that price, This was a very short time before I traded with Jessee and might have been the same day. And this conversation with Mr. Rivers I did trade with Mr. Jessee.

Ques 9. Did you have any conversation with Mr John W Scott in reference to the sale of this tract of land to Mr Rivers or any one else before your sale to Jessee if so state what was said?

Ans. We talked several times about it. He named Mr. Woolfe. Chas Plout and Rivers as persons who would probably buy it. Then at another

time we talked and he said they had agreed for G.C. Jones to purchase from J Thomas and Davis Flannary & his wife would buy the remaining five. Before this last conversation Mr Seale had said to me he did not think there was anything in Rivers

Ques 10. If you had thought there was anything in Rivers and that he would have paid $3500.00 for the tract, would you have sold the share you sold for the price you did?

Ans No, because I wanted not

X 4

* 1 At what price did you sell the Amanda & John Litton share in said land to Stallons & Jones.

Ans At $350.00

2. Did you consider that a fair price for said Interest?

Ans I did, and a little over. I sold it on the following terms $100. & paid Jan 1/96 $100. & he paid Jan 1/97 and $150. Jan 1/98. The deferred payments

bearing interest from Jan 1696.

3. If said Tract of land is divided North and South as indicated by you in one of your answers in chief, tell about the length and width of a single share.

Ans. The Tract of land is pretty much square: I think a little longer north and south than east and west, the shares will in my opinion be standing 160 poles long and in consequence the width of each share will depend upon the quality of soil in each share

4 What do you think will be marketable value of a single one of the 6 shares by itself if said 6 shares are laid off on the Eastern side of said Tract.

Ans I think the marketable value of the shares would be equal to the real value and that one share would be as valuable as another.

5 In the conversation you had with Mr South about disposing of

by you, did you not advise and insist upon a sale of said tract altogether, and did you not say in that conversation that if the tract was partitioned that you would not give your gray mare for either one of the shares,

ans. Yes, I wanted it all sold together if it could be sold at $3500 to whom they say Rivers & Ford.

I have no recollection of the gray mare incident though I might have said it in a jesting way.

6 Please state how said land is watered and give as nearly as you can if 4 shares are laid off on the west how the springs will be located with reference to said shares.

ans. Said farm is badly watered there is a spring at the house which is a stony spring; it's weak & runs south into the orchard & ditches in the meadow just below. That spring might fall another farm shares & might not

the other Spring is up within about 100 yards or such a matter from the north line and about the same from the east line It is a small Spring but constant in its flow and it could be piped across the farm to the house

And further this deponent saith not.

W. S. Litton

Wit. claims 1 day attendance. 50¢

W. L. Flanery another witness of lawful age and being first duly sworn deposes & says.

Ques 1 Are you one of the grantors in deed to G. C. Jessee & S. C. Stallard filed in the cause?

Ans Yes, sir.

Ques 2. Is your sister, Rebecca A Flanery, mentioned in said deed, an infant under 21 years of age?

Ans. Yes, sir She is 18 years of age

Ques 3. Was her interest sold or contracted along with yours & your sisters, Elizabeth A Orr?

Ans. It was sold along with ours

Ques 4 Do you consider the sale of her interest at a fair price, and do you think said sale advantageous to her, and acting for her do

laid off on the East side of said
tract would have a market
value of $350.00

Ans. As to this I do not think they could
bring that money

7 Please state the location of said
fire shown with reference to the
lands of adjoining owners?

Ans. It would C. F. Flowery Jun, & J. C. Flowery & Bro
on the South; R. E. Litton on
the East and north; and for-
suppose they would touch C. T. Flowery's
land on the north, and on
the west it would by the four
shares for each

And further this deponent
saith not

A. D. Litton

(Wit. claims
1 days attendance
.50 cts)

R. E. Litton another witness of lawful
age and being duly sworn deposes & says.

Ques 1. Please state, your age, occupation & residence?

Ans. Am 43 yrs old farmer by occupation
Live on Yakum Station

Ques 2. Are you acquainted with the James
Flowery tract of land, and if so how long
have you known it, and how far do
you live from it?

Ans. I am acquainted with it from boyhood
Live on lands adjoining it which
I own.

Ques 3 Did you purchase the land you live on
or how did you obtain it?

3. I obtained it in exchange for other
land in the neighborhood

Ques 4 What do you consider the tract worth?

Ans- Twenty seven or Twenty Eight
Hundred Dollars.

Ques 5. From your knowledge of said farm do
you think it could be conveniently partitioned
into 9 equal shares, quality, quantity &c
considered?

Ans. I think it can

Ques 6. How do you think this could be most
conveniently & fairly done?

Ans. By running the lines north
and south so as to give each
share an outlet to the public
road and this would divide
the cleared and timbered land
in the best manner in my opinion

Ques 7. If partitioned in that manner, that is by
running the lines, Northwardly & Southwardly
could the 4 shares owned by the plaintiffs
be laid off together on the west side

and adjoining the other lands of S. C. Stallard, without material injury to the interests of the owners of the 5 shares?

Ans. They could.

Ques 8. Would the 5 shares thus laid off on the East side probably sell for their value?

Ans. I think they would.

Ques 9. What would you consider the five shares worth per share, thus laid off?

Ans. From $300.00 to $350.00

X Examined

Do you know of any person who would give $350. for one of those 5 shares or for either one of them.

Ans. I'll give $300 each for two of them Don't know of any one who will give $350 for a share but there may be some who would give more. Some times who want small homes would give more for a small place than for a large one because it would better suit their purse.

2 If said Tract of land is purchased

by laying off four shares on the west side adjoining the lands of Dr Stallard the other five shares separately on the east how many of said parcels would have water on them?

Ans. There would be no running water on the four west shares in my judgement. There are only two running Springs to my knowledge on the place. One near the dwelling House, one near the north east corner of the tract

3 Dont you regard it a disadvantage to shares of land to have water rights given over them to other shares

Ans- I do not consider it a disadvantage to this land

4 If you owned a lot, lying between the spring and another lot, would you not consider it a disadvantage to your lot, for your neighboring lot owner to have a right of way across your lot to said spring.

Ans to sir I would not if I was one of the heirs

your desire its confirmation and that her share be laid off along with the other tens to Jesse & Stallard?

Ans. I do so consider it and do ask for its confirmation and that it be laid off to them:

And further this deponent saith not H. L. Flowery.

wit. claims 1 days attendance .50 cts.

G. C. Jesse another witness of lawful age and being first duly sworn deposes & says?

Ques 1. What is your age, residence & occupation?

Ans. Am 42 yrs old; live in Yakum Station farming by occupation.

Ques 2. Are you one of the plaintiffs in this suit?

Ans Yes sir;

Ques 3. ~~Was you acquainted~~ with the James Flowery tract of land?

Ans Yes sir & live ~~in~~ about a quarter of a mile from it.

Ques 4. Do you own any land where you live and does your land adjoin the said Flowery tract and if not how near to it?

Ans Yes sir I own some land where I live, ~ 17 acres. It does not adjoin the Flowery Tract. There is one field between my land and the

Flanary tract owned by S.C. Stallard and is a part of the farm on which he resides.

Ques 5- Does S.C. Stallards farm, on which he resides, adjoin the Flanery tract & does your 17 Acres on which you reside adjoin his?

Ans Yes Sir.

Ques 6 What relation are you to S.C. Stallard and Rebecca Stallard his wife?

Ans I am their son in law

Ques 7 How many children have they?

Ans. Just two. my wife and Dr M. L Stallard who lives at Norton Va

Ques 8. Please state the interests of yourself and S.C. Stallard & wife in the Flanery tract?

Ans. Dr. S.C. Stallard and my self own three shares and Mrs Stallard own her own share. being a daughter of James Flanary deceased.

Ques 9. What did you pay for the shares you purchased and on what terms?

Ans. I paid for ~~two~~ shares $300. each ~~Both~~ of these, cash in hand- for the other I gave $350.00 on the terms stated by D.S. Litton in his deposition

I do not consider that was much difference in the three purchases under the circumstances and considering the terms.

Ques 10 Do you think the tract can be conveniently partitioned into 9 equal shares?

Ans Yes, sir, I do. By running lines north and south.

Ques 11 Do you think the partition could be made and the shares laid off and assigned in the manner you ask in your bill, without material injury to the interests of ~~all~~ any of the parties concerned?

Ans. Yes, I do

Ques 12. Were you at any time requested by any of the parties to purchase interests in said farm, and if so by whom, and state what was said?

Ans. Yes sir. I was insisted on by Mr. Elkanah Flowery to buy three shares. I am not quite sure saying something about Rives wanting to buy, he told me had not much faith in Rives. he urged me to buy the three shares and stated that Isaac Flowery would take the five shares on the east

I told him I didn't know that I could do so then but that I would think about it. But after thinking about it concluded to buy the three shares and did so. I had about the same talk with J. H. Scott

X Ex

1 When was it you and Elkanah Flanary had the conversation spoken of by you about

Ans. It was I think in August of this year.

2 Did not Mr. Flanary always insist that it was best to keep said lands together and sell it all in a body.

ans. Yes that was Elkanah's talk at first but after he failed with Rivers he said he thought me and Travis Flanary would be the next best chance.

3 Was not the failure to agree with Rivers owing to the fact as stated by him that Mrs Stallard declined to sell her share

Ans. He first said to me that he

wanted me divide on mo Hatton
or allughter share; that if she would
they could sell said land to Price
for $3000.00 This conversation
was at the time above spoken
of by me and also afterwards
at Jamesville

2. 4. Suppose said land is divided as you
ask for it to be done. now what do
you think would be the fair marketa
ble value of the middle one of the
5 shares? by itself

Ans. I could not answer definitely but it
would depend upon who purchased it.

6. How much would you give
for that share situated in the
way above stated.

Ans. Being in there with two shares
between it and any land, unless
I could get those two shares, I could not
give much for it. I would however
pay $300. per share for the five altogether

And further this deponent saith not

G. C. Jessee

The foregoing depositions of R. W. Orr, A. D. Letton, R. E. Letton
D. S. Letton, W. L. Flanery & G. C. Jessee were taken, subscribed and
sworn to before me at the time and place and for the purposes in the
caption mentioned. Given under my hand this October 31st 1895.

W. A. Orr Jr. N.P. for Lee
County Virginia

G. C Jessel et als.

vs } Defts

Elkanah Flowers et als.

Filed Nov 1st 1895

A B Munsey Clerk

Interrogs $6.00

Witnesses $3.00

Total $9.00

The depositions of Elkanah Pennington et als

taken pursuant to agreement at the Depot at Dryden Lee County Va on the 20th day of October 1890. before W. A. Orr Jr. a Notary Public in. for said County. which depositions are intended to be read as evidence on behalf of the Defendants in a Chancery cause now pending in the Circuit Court of Lee County Va in which G. C. Jasper & others are Complainants and C E Flannery & others are defendants.

Present. Complainant G. C. Jasper & his Counsel J. W. Orr.

J. W. Scott Esq of the Defendants and C. T. Jasper Counsel for as ad Litem and Guardian for the infant defendants. for the Defts

Elk. Pennington a witness of lawful age being first duly sworn deposes and says.

1 Question. Are you acquainted with the tract of land owned by the late James Flannery at the time of his death, if so how long have you known it. and how close do you live to it?

Ans. Yes sir I know who's & the

farm lies. I suppose I have measured it - I might say 30 years I suppose I ~~have~~ am about 2 miles of it.

2. From your knowledge of said farm can it be partitioned by laying off 4 shares on the western side, adjoining the lands of Dr Stallards, without material injury to the interest of the heirs whose shares would fall on the eastern side of said land?

Ans. It occurs to me that said farm would sell together to better advantage than any of the shares would sell if partitioned

3. What in your opinion is the fair cash value of said farm, allowing upon the usual terms of credit, say one two and three years time bearing interest from date?

Ans. I do not think I can answer that question satisfactorily. Never having been asked the timbered land

4 Can you give me your opinion of the probable sum a share, that is one ninth of said East land

of on the East side of said land would sell for?

Ans. One share out of three any share would be at the mercy of any individual, or two and would not likely to sell for its full value It would be a long narrow strip and at the mercy of those surrounding it.

5 How you gone over said land recently with a view of ascertaining its value, and its availability for partition if so are your conclusions based upon your said examination

Ans I have recently gone over the cleared land. I went over it for the purpose of ascertaining it value and its availability for partitioning the reason I did so, I had been informed that my deposition would be taken in this case & I wanted to be as accurate as possible.

+ Examined.

Ques 1. Are you pretty well acquainted with the shape & location of the James Flanery farm.

Ans I suppose I am

Ques 2. Do you think this tract could be conveniently partitioned into nine equal shares?

Ans. I could think so; as to value.

Ques 3. Plase state the manner in which you think this could be most conveniently done?

Ans. It seems to me that it would be most practicably done by running north & south.

Ques 4. Would not five shares thus laid off on the Eastern side of said farm probably sell for their reasonable Value, either to adjacent land owners or to some one else who might want about that much land?

Ans. Probably they would.

And further this deponent saith not. E. E. Pennington

Wit. claims one days attendance .50

George J. Kappin another witness of lawful age being duly sworn deposes and says

1 State your age residence & occupation.

Ans My age is 44 years. live on James Flannery Tract of land in Yankton Station; occupation, a farmer. Have lived on said Farm

5

Over 3 years

2. State whether or not said tract of land can be partitioned, by laying off four shares on the west side bordering the lands of Dr Stallard without material injury to the interest of the five heirs whose shares would be on the east side of said land.

Ans No. I hardly think they can

3 Which is the best land on said farm.

Ans. The best land I think is on the west end of the farm

4. What do you think either of the shares laid off on the east end could be sold for by itself, after the partition is made.

Ans. I guess it could be reasonably sold for $300.00 or $350.

5 Can you give anything like a fair estimate of the distance across said tract of land from the north to the south line.

ans. Something from one half to three quarters of a mile

+ Examined

Ques 1 Does not the tract lie pretty much in a square?

Ans Yes nearly so.

Ques 2. Could it not be conveniently portitioned into nine shares equal in value?

ans. I suppose it would be possible to do so lay it off that the shares would be something like equal in value.

Ques 3. How could this be most conveniently done by running the lines North & South or East & West?

ans. I think by running the lines North and South

And further this deponent saith not. George J Napier

Wit: claims
1 days attendance
.50

E. S. Flanory another witness of lawful age being duly sworn deposes & says

1 Are you acquainted with the land owned by James Flanory at the time of his death and if so how long have you known it.

Ans. and if so how long have you known it.

Ans. I have known it for many years. have been over most of it.

2. You were raised, and still reside on a Tract of land adjoining said Tract were you not?

Ans. Yes, Sir

3 If said Tract of land can be sold for $3500.00 which in your opinion would be most to the interest of James Flanory's hirs. To divide said lands among them. or to sell said land and divide the money?

Ans. My opinion is, to sell the land and divide the money.

4 Do you think said Tract of land can be partitioned by laying off four shares, on the West side next to the lands of Dr Stallord, without materially injuring the interest of the 5 hirs whose lands would be on the east side of said tract.

Ans. I should think with most men it would depreciate them interest though there might be men who would want about that sized tract. and in that event it would not injure their interest.

5. What do you think would be the fair value of one of said shares, that is one fifth of said Tract. on the east side laid off by itself.

Ans. I would not want to pay over $250.00 for it by itself

if I had no land adjoining it.

6th I believe you have land adjoining said tract of land on the south side. Now supposing said land is divided by north and south lines. what would pay for one of said shares. or what would be its fair cash value to your tract of land.

Ans. This is excepted to because irrelevant & immaterial. The owner is not nor would not be confined or restricted to this witness, as a purchaser.

Qu. for Plffs.

Ans. I would not give any more than $200.00 for it.

+ Exmd

Ques 1. What do you think would be a fair price for one share by itself laid off on the west side.

Ans. I would think it worth $300.00

Ques 2. If the tract was properly partitioned into 9 equal shares in value why do you make this difference?

Ans. The land on the west side is better land and lies better.

Ques 3 If the land on the west side was better land, would not that share have to contain a less number of acres, and if the shares

were all laid off equal in value, quality, quantity &c Contiguous, would not the shares be equal in value no matter where situated?

Ans I think if they were laid off that way they would. but still I would pay $50 ℔ more for a share on the west side than for one on the east side although they were laid equal in value

Ques 4. Can not the farms be conveniently partitioned into nine equal shares?

Ans. I suppose it might be done.

Ques 5. How can this be most conveniently and fairly done, by lines running N & S. or E & W.

Ans. I think they would have to be north and south.

Ques 6. If four shares were laid off on West side and 5 on the East side might not the five shares sell for a fair price, either to adjacent land owners or to some one wanting about that much land?

Ans. It might be; I can't say that it would or would not.

And further this deponent saith not

E S Hanay

Harvey Young another witness of lawful age being duly sworn deposes & says.

1 Are you acquainted with the tract of land owned by James H Lamon at the time of his death, if so how long have you known, and how close do you live to it.

Ans. I am acquainted with said land known it all of my life, live about a mile and three quarters. was raised that neighborhood

2. Do you think said tract of land can be partitioned by laying off 4 shares on the west side adjoining the lands of Dr Stallard, without material injury to the interest of the five shares lying on the East side. if not why not.

Ans I do not consider that it can. In the first place the farm altogether is not more than enough for an ordinary farmer. And any farmer of that size to cut off a part of it would injure all parts thereof.

The shares would be long and narrow. There is only

water near the middle of the farm - and if the four shares should take that spring, the other shares would be left without water unless they were given a right to that spring There is a small spring near the north East corner of the farm but it is so far up and so weak that it is not of much value.

3 What in your opinion would be the fair marketable value of one share laid off on the east side taken by itself.

Ans. I should not put it over $200.00 for a share

4 If said land could be sold as an entire tract for $3500.00 which in your opinion would be most to the interest of the parties entitled to said land. to partition the land among them, or to sell the land and divide the money?

Ans. To sell the land and divide the money as soon as

Edmund

Ques 1. Are you acquainted with the spring on the North East Corner of the tract?

Ans I think I am

Ques 2. What is its condition now?

Ans. I have not been there for some time. I have been informed that it runs more water than the one at the house

Ques 3. Can not the farm be conveniently partitioned into nine shares equal in value quality, quantity &c considered?

Ans I suppose it could it could be laid off into 9 shares of Equal value

Ques 4 How could this be most conveniently done

Ans. I think it would be best to divide it north and south

Ques 5. If partitioned in this way, ~~would not the~~ and 4 shares laid off on West side and 5 on the East side, adjoining would not the 5 shares probably sell for a fair price?

Ans. I don't Know how it would be they might possibly do so.

Ques 6. What do you think the farm is worth as a whole?

Ans. I would not consider it worth more than $2500

And further this

deponent saith not

Harvey Young

The foregoing depositions of Elkanah Pennington, George J. Napier, E. D. Flannery and Harvey Young were taken, subscribed and sworn to before me at the time and place and for the purposes in the caption mentioned. Given under my hand this 31st day of October 1895.

W. A. Ord Jr

Notary Public for

Lee County Virginia

Elkanah Flaucry et-als

vs } Depos-

G. C. Jessel et als.

Filed Nov 1st 1898.

A B Murray
Clerk

Notarys fee $4.50

Witness fees $1.00

Total 5.50

The depositions of John Rivers John W. Rivers,
J.W. Scott + E.Kanah Flanary,

taken at the Law Office of Orr, Flankenship and Ewing in the town of Jonesville Virginia, on the 24th day of October 1895, pursuant to agreement, to be read as evidence on behalf of the Defendants in a Chancery cause now pending in the Circuit Court of Lee County Va, in which G.C.Jessee and others are complainants and C.E. Flanary and others are defendants.

Present :G.C.Jessee, one of the Complainants, and Orrr Blankenship and Ewing Counsel for said Complainants.

C.E.Flanary and John W.Scott ~~two~~ Two of the Defendants, and Duncan and Hyatt Counsel for said Defendants.

John Rivers a witness, of lawful age being first duly sworn, deposes and says:-

QUES. 1 Please state your age residence and occupation.

Ans. I am 39 years old, reside in Yocum station Lee County Va. I ~~m~~ am a farmer.

Ques. 2 Are you acquainted with the tract of land owned by James Flanary at the time of his death, if so, how long have you known it

Ans. I have seen the farm, have worked on it, but have not been all over it. I was principally raised in that country close to it.

Ques. 3. What in your opinion is the fair cash value of said tract of land, taken all together as an entire tract? on the usual terms of credit given on sales of land, say one, two and three years?

Ans. I offerred $3500.00 for it, and I thought that to be its fair cash value.

Ques. 4. Located as that tract of land is, do you think it could be partitioned so as to lay off four shares adjoining the lands of Dr. Stallard without material injury to the interest of the other parties interested?

Ans. It would depend on circumstances, and on how much land the party buying might want.

Ques. 5. What in your opinion would be the fair cash value on the same terms as mentioned in question three of five-ninths of said tract

laid off on the eastern side there of?

Ans. A man would have to sorter guess at that. I offerred for ~~six~~ eight shares laid off there $350.00 per share , but ofcourse ~~it~~ that would be more land together. That is about as full as ~~I~~ I could answer.

Cross-Examined.

Ques. 1. Might not the five shares laid off on the east side be worth as much to a person only wanting that much land as you offerred for the eight shares per share?

Ans. It would be owing to how much land the purchaser wanted.

Ques. 2. Do you own any land?

Ans. No sir, and never did.

Ques. 3 Is it not a fact that there ~~is~~ are more persons who want to buy a farm worth from $1500.00 to $2000,00 than there are who want to buy a higher priced farm?

Ans. A person generally wants to buy according to his money.

Ques. 4. Why do you Re-examined by Defendants.

Ques. 1. I omitted to ask you one question. What do you think will be the fair cash value ~~of~~ on the terms mentioned in question three of one share by itself on the eastern end of said farm?

Ans. I don't know that I could answer that. It would be owing to who wanted it. I don't think a man would want one share there by itself unless he had other land adjoining it.

Witness claims 90c

And further this deponent does not say.

John W. his Scott mark

John W. Scott, another witness of lawful age being duly ~~xxx~~ sworn deposes as follows:

Ques. 1. Are you acquainted with the tract of land owned by James Flanary at the time of his death, if so state how long you have known it and how near you live to it?

Ans . I am acquainted with said tract of land, and have known it for forty years, and live in about three miles of it and have not lived farther from it at any time since I have known it.

Ques. 2. Please state whether or not said land can be partitioned by laying off four shares on the western side of said land adjoining the lands of Dr. S. C. Stallard without material injury to the interests of the other co-parceners, the defendants in this case?

Ans. I think not.

Ques. 3. What in your opinion is the fair cash valuation of said tract of land on the usual terms of credit, say one, two and three years, bearing interest from date?

Ans. I think the least calculation I could make on it would be $3600.00.

Ques. 4. Please state what you think would be the fair cash marketable value of five-ninths of said tract of land laid off on the eastern side thereof, on the same terms mentioned in above question?

Ans. I don't know whether the five shares could be sold for $250.00 per share or not; I know of no person who would give that sum for them.

Ques. 5. What would be the fair marketable value on same terms of one share laid off on the same side?

Ans. I do not think one share on the east side could be sold for over $200.00.

Ques. 6. Please state the situation of that tract of land as to water and timberfor farming purposes?

Ans. It is scarce of water, there is just ~~one spring~~ two springs, one near the house on the west side thereof; this spring unless it is carefully attended to sinks in a short distance from its head, but if carefully attended to and when the water is anyways flush runs some two or three hundred yards. The other spring is on the knob on the northeast corner of said land; in the winter and spring of the year the branch from this spring runs into the cleared land, but in the summer and fall it does not. There are plenty of timber on said land for farm purposes ; there is also marketable poplar and walnut timber on said land I think to the value of $400.00. The timber is scattered on the farm , most of it on the knob on the northeastern part of said land.

Cross-Examined.

Ques.1. Are you a party to this suit, and does your wife own a share in the land?

Ans. I am and she does . My wife was a daughter of James Flanary.

Ques. 2. Why can not four shares be laid off on the west side without material injury to the interest of the other parties?.

Ans. The best land lies on the West side,and when they are cut offt it leaves the other shares in bad shape,hemmed in between the lands of two men,that is the ~~XXX~~ four shares mentioned on the West and the lands of Robert E.Litton on the East, the lands of C.F.Flanary might perhaps touch it upon the north West side,on the knob,the lands of Elbert and J.J.C.Flanary join it on the South.

Ques. 3. Does not the public road pass through the farm cutting off a small strip along the south side thereof and would not the two parcels have access to the public road?

Ans. Yes, sir.

Ques4. Is there not as much good land on the eastern part of the farm as there is on the western side thereof?

Ans. I think not; the land on the east end is worn more than the ~~xx~~ west side.

Ques. 5. Is there any other way in which the tract could be more conveniently pattitioned than by laying off four shares on the western and five on the eastern portion thereof, and if so how can it be done?

Ans. It could be laid off the other way, by lines running east and west. It would ~~it~~ be more valuable to the place to lay it off this way, i. e, I think the Shares could be more readily sold laid off this way.

Ques. 6. How would this divide the cleared land and the timbered land?

Ans. I do not think it would be as convenient as to timber, but the land could be more equally divided.

Ques. 7. To aly off four shares on the western and five. on Eastern portion,how would the two springs be probably situated with reference to the two parcels?

Ans.

Ans. The spring near the house would in my opinion be close to the division line, probably said spring would be on the four shares the other spring would be on the Eatern portion or on the five shares.

Ques. 8. If the four shares were laid off on the eastern side and the f five shares on the western side what would the five shares be worth on the western side per share?

Ans. Five hundred dollars a share.

Ques. 9. If all the shares were properly laid off equal in value, quantity, quality and ways , &c., considered, how could you then arrive at your conclusion just stated?

Ans.. If the shares were all laid off together equally, according to quantity and quality they are worth $3600.00. If the shares are equal, quantity and quality , &c., considered they are worth the same no difference where laid off.

Ques. 10. Would not the marketable timber of which you speak principally fall upon the five shares if laid off north and south and on the east side of the farm?

Ans. It would.

Ques. 11. Would you and your wife take $250.00 for her share?

Ans. No, sir.

Ques.12. Would you take $300.00?

Ans. We would not.

Ques. 13. Has not the plaintiff G. C. Jessee offerred you $300.00 for your wife's share, no matter where it might be laid off?

Ans. Never, that I know of; he asked me if I would take $300.00.

Ques. 14. Then if that amounted to an offer, a share on the eastern portion of the farm, should it fall there, would be worth more than $200.00 , would it not?

Ans. I would not think it would be worth over $200.00. I don t believe a share on the eastern end could be sold for that amount I would not give it.

Re-examined.

Ques. 1. When was it that Mr. Jessee asked you if you would take $300.00 for your wife's interest in this tract of land, was

it before or after this suit was brought?

Ans. It was before the suit was brought."

Ques. 2. Do es any of the heirs of James Flanary, deceased, except Mrs. Stallard own any land in the neighborhood of this tract of land?

Ans.. No, sir, they do not. I live the nearest to it, which is two miles from it.

Ques. 3. Does the plzintiff, G.C.Jessee, own any land adjoining this tract?

Ans. I do not exactly know, but as he informs me he does not. His fatherinlaw, D.Stallard, does own land adjoining.

And further this deponent saith not.

J W Scott

Ques.1. ELcanah Flanary, a lawful witness being duly sworn saith:

Ques.1. Are you one of the defendants to this suit?

Ans. I am.

Ques. 2. Are you acquainted with the tract of land owned by James Flanary at the time of his death, and if so, how long have you known it?

AAns. I am, and have known it all my life as I was born and raised thereon.

Ques. 3. State whether or not said land can be partitioned by laying off four shares on the West side thereof adjoining the lands of ~~D~~.S.C.Stallard, with out material injury to the interest of the other coparceners?

Ans. I do not think it can be.

Ques. 4. State what you believe to be the fair cash value of that tract of land as an entirety, sold on a credit of one, two three years time bearing interest from date?

Ans. I think it well worth thirty six hundred dollars.

Ques.5. If you have been offered any sum for said tract of land please state the sum that you have been offered, by whom the offer was made, and whether or not he was able tomake

good his offer?

Ans. John Rivers offered me the sum of thirty five hundred dollars, and I considered him good, as he offered to pay most of it down.

Ques.6. State what you think would be the fair marketable value of five shares laid off on the Eastern side of the said tract of land?

Ans. I do not think that they could be sold there under the circumstances for more than $250.00. per share

Ques.7. Please state whether or not in your opinion either one of the five shares of the defendant's, if laid off as the plaintiffs ask the land to be divided, could be sold for the sum of three hundred and eighty dollars, if not, state whether or not you think they could be sold at all or not, and if so give the highest sum for which you think it would sell, if so laid off?

Ans. I do not think that they would bring near the sum of three hundrd aand eighty dollars, and I do not believe that they would sell for $200.00

Ques.8. State the location and situation of the said land as to water and timber?

Ans. It is very well timbered, and as to water there are two very weak springs on it, as I consider it, one on the North east corner and the other near the center.

Ques.9. Can the spring on the North East corner be ~~used for use if a house should be built near it~~ for farm purposes on said land.

Ans. It could not.

Cross-examination

Ques.1. Did not G.C.Jessee offer you $300.00 for your share before the insitution of this suit.

Ans. There has been some such talk as that, but I can't say that he did offer me that.

Ques. 2 . Do you make the same statement in regard to the public road passing through the farm as was made by John W.Scott.

Ans. The public road runs through said land on the South side cutting off a smal strip, if the land is laid off north and south as asked by t

the Complainants all the parcels would run across the road and of cours would give access to each share to said road. That is to divide it in two parcels, five shares of the East and four on the west each of said parcels would cross the road, but if the five shares were laid off separately each one of them would have access to the road, but all would not cross it.

Ques. 3. Please state why you think the land cannot be conveniently partitioned as asked for by the Complainants, without injury to the interests of some of the coparcerners?

Ans. From the fact that the best land is all on the east side of the farm, and that I don't think we could sellit at anything like the price if it all staid together

Ques. 4. Is it not a fact that this tract of land can be partitioned into nine equal shares, and those shares laid off in convenient form and equal in value, and said partition made in more ways than one, and if so in what manner can it be done?

Ans. I think it can not be divided in nine equal shares everything considered.

Ques. 5. Please state why you think this can not be done?

Ans. On the account of the water and the shape that the land is in and the timber.

Ques. 6. Could not more than one share be given access to water and is not this frequently done?

Ans. In dividing it up I think not unless the division lines should happen to hit about the spring, or one share giving the privilege to another to cross.

Ques. 7. Please state what there is peculiar about the shape of the land, situation of the timber and water to prevent a partition of the same?

Ans. The land lies in a long shape running nearly to the top of Stockers knob from the road; the principal part of the timber is up on the knob side, which is the northeast side, there is a good body of timber down on the south-west side; on the north-east corner there is a weak spring and it can not be divided to throw this water on but one share; the other spring is down near the center of the farm and is situated as I have heretofore stated.

Ques. 8. If the land was partitioned as asked for by the plaintiffs would not the spring on the north-east portion be situated on the five shares, and would not the best portion of the timber be on said shares?
Ans. The spring would be , but the timber would not be. I regard the best timber as being down in the flat woods on the south-west side; there is however some fine timber on the knob that it is hard to tell on what shares it would fall.
Ques. 9. If one or two shares laid off on the east side of the farm will sell for $300.00 per share, then you are mistaken as to the value of shares on that side of the farm , are you not?

(The fore going question is objected to because there is no evidence proving or tending to prove that a share laid off on the east side of tract of land would sell for $300.00.)

Ans. If they would bring that amount I am mistaken.
Ques. 10. If the shares ~~xxxx xxxx~~ were all laid off equal in value would not one share be worth as much as another, no matter where situated?
Ans. They would not bring as much, but would be worth as much.
Ques. 11. Please state why the spring on the north-east corner could not be used for farm purposes on said land?
Ans It can be used for farm purposes on one share.

Re-examined

Ques. Do any of the parties interested in the tract of land owned by your father at the time of his death, except Dr.S.C.Stallard own any land adjoining it, and if not please state how near each one of them have land to it.

Objected to because testimony in chief.
Ans. None of the five defendants own any land adjoining said land, J.W. Scott and wife are nearest to it, and they are about two miles away, J.C Olinger and wife are the next nearest, and they are some 6 or 7 miles away, C.E.Flanary and myself are next and that is some 20 miles away. William Flanary's heirs own no other land.
2 Would it be possible for said land to be partitioned so that each of said shares laid off by itself would bring as much as $388.00
Ans. No Sir, it could not be done.

Re-Cross-examined

Qq
ues.

Re-Cross-examined.

Ques. 1. Then you do not agree with the witness Scott that five shares laid off on the west side of said farm would be worth $500.00 per share do you?

Ans. I do agree with Scott.

Ques. 2. Then if the shares were all laid off equal in value and the five on the west side contained five-ninths in value of the entire farm how do you arrive at the above conclusion?

Ans. As the four shares ~~xxxxxxxxxx~~ would lie back hemmed in they could not be sold for their value.

Ques. 3. Would the four shares be any worse hemmed in than the five, and if so how?

Ans. Yes, they would be hemmed up between two men who would not buy, or say they would not buy.

Ques. 4. Would they not be bounded by four men or more?

Ans. They would be bounded by three or maybe more.

Ques. 5. By how many would the shares on the west side be bounded?

Ans. By five land owners.

Ques.6. You stated awhile ago that three or more bordered on the four shares, now were you correct about that?

Ans. No, I think there would be five.

And further this deponent saith not.

Elkanor Flanory

Virginia, Lee County, to-wit:-

I, S. V. F. Richmond, Clerk of the County Court of Lee County, Virginia, do certify that the foregoing depositions of John W. Rivers, J. W. Scott and Elkanah Flanary wre taken, subscribed and sworn to before me at the time and place and for the purposes in the caption mentioned. Given under my hand this the 28th day of October 1895.

S. V. F. Richmond, [illegible],

Clerk of the County Court of Lee County, Virginia.

G. L. Jessee et als
vs. In Chancery
Elkanah Flanary
et ae

Depositions of
John W Rivers. John
W. Scott. & Elk Flanary.

Clerks fee due
S. V. R. Richmond $4.50

Received from S. V. Richmond Clerk before whom taken & filed Oct 29th 1883.
A B Munsey Clerk

G. C. Jessee, et al., Plaintiffs.

Against-(-In Chancery.

Elkanah Flanary, et al., Defendants.

To the Honorable W. T. Miller, Judge of the Circuit Court of Lee County, Virginia:-

Your undersigned Commissioner in the above styled cause reports that after having advertised thirty days he executed your honor's decree dated Nov..., 1895, by the sliing the land in the bill and pleadings named at the front door of the Court House of Lee County, at public out cry on the 20th day of January 1896, that being the being the first day of the January term of the County Court of said county, to G. C. Jessee at the price of $100.00; that the purchaser paid your commissioner $5.00 his commission and executed to him his two notes for the sum of $95.00 with J. C. Jessee his securety, bearing interest from date; the first of which is due in one year and the second in two years. The purchaser desires to pay the balanceof the purcase money at once and upon so doing that the Court decree him a deed. Your Com'r recommends the confirmation of this report and that the purchaser be allowed to pay his said bonds without further delay.

February 6, 1896. Respectfully Submitted.

Geo. W. Blankenship,

Commissioner.

G. C. Jessee, et al

vs. } Comm'rs report.
#1.

Elkanah Flanary, et al.

Filed Feby the 7th 1896
A B Munsey
Clerk

Norton, Virginia, February 15, 1899.

George W. Blankenship, Commissioner,

In the Chancery cause of G. C. Jessee , et als.,

Against Elkanah Flanary, et als.

Sir:

G. C. Jessee has settled with me in full for my interest in the land, described in the bill and proceedings of the Chancery cause now pending in the Circuit Court of Lee County, Virginia, in which said G. C. Jessee, et als., are Plaintiffs , and Elkanah Flanary, et als, are Defendants, and in which said chancery cause, you as Commissioner sold my said interest on the 20th day of January 1896, for the sum of Rx $100.00, and at which said sale G. C. Jessee became the purchaser thereof, and executed to you as Commissioner, his two notes with J. C. Jessee, as security, due in one and two years, and I hereby authorize you to turn over to said Jessee his notes and report the same to Court, he, the said G. C. Jessee, having as above stated settled with me and paid me in full, the receipt of which is hereby acknowledged.

Very Respectfully,

Rebecca Ann Body nee Rebecca Ann Flanary

"Receipt."

Office

DR. M. L. STALLARD

Norton, Va., Oct 14th 1898

Received of G. C. Jessee One hundred dollars in full payment of Notes Executed to me as Rebecca Ann Flanary previous to my marriage and I hereby authorize the Commissioner who may hold my Note against said G. C. Jessee to surrender same to him— It is intended that this Receipt shall cover all amounts for any claims whatsoever that may be due me both real and personal from said G. C. Jessee— Witness given under my hand

Rebecca Ann Body

Witness

M. L. Stallard

Oct 14th 1898.

"Lessee"

G. C. Jessee, et als., Plaintiffs.

Vs. (In Chancery.

Elkanah Flanary, et als., Defendants.

To Hon. W. T. Miller, Judge Circuit Court of Lee Co., Va.:

----------Your undersigned Commissioner in the above styled cause of G. C. Jessee, et als. vs. Elkanah Flanary, et als., respectfully reports: That G. C. Jessee, purchaser of the land sold him by your Commissioner, heretofore reported in this cause, the same being the interest of Rebecca Ann Flanary, now Rebecca Ann Body, an infant under the age of twenty-one years at the date of said sale, to-wit Janaury 20th 1896, but who is now over the age of twenty-one years and has married; has settled with said Rebecca Ann Body, nee Flanary and paid to her the purchase price he was to pay your Commissioner, which said payment and settlement, is evidenced by a statement of the said Rebecca Ann Body, nee Flanary, addressed to your Commissioner and sent to him by her and which is herewith filed as part of this report marked " Receipt." As the matter is now settled between the parties said G. C. Jessee is entitled to a deed for said land, and your Commissioner requests that he be directed by your honor's decree to turn over to said G. C. Jessee the notes executed by him with J. C. Jessee as security for said land. In addition to the statement sent your Commissioner by the said Rebecca Ann Body, nee Flanary, she on the 14th day of October 1898, excuted and delivered to said G. C. Jessee a receipt acknowledging the payment by said Jessee to her for her interest in said land, which receipt your Commissioner also files herewith marked " Jessee." This February 25, 1899.

Very Respectfully.

George W. Blankenship

Commissioner.

G. C. Jessee, et als.

28. Comr's Report.
#2.

Elkanah Flaury, et als.

Filed March 1st 1899.
A. B. Nunley Clk.

J. B. LIPPINCOTT COMPANY,
Booksellers and Stationers,
Philadelphia, Pa.

G. C. Jessee Pltff
vs
Elkanah Flanary etal Defts } In Chancery

To the Hon. Circuit Court of Lee Co Va.
Pursuant to an order dated Nov 1895 issued in the above styled Cause we the undersigned Commissioners L.M. Cannical H.C. Gaslyn W.G. Bishop and D.S. Reason appointed to partition the lands of the late James Flanary (deceased) After having been duly sworn performed said duties according to the following Plat & Report. We found said lands to consist of small tracts adjoining each other containing in all 153 acres. We have laid off and assigned to Rebecca Stallard Lot No 1 Which we consider equal in value to one ninth the entire tract; and is bounded as follows- Beginning at (A) a rock the South west corner of the lands required to be partitioned thence with lines of same and S.C. Stallards lands N 11 E 37½ poles to (B) a rock N 70 W 7½ poles to a rock N 30 E 8½ poles to a rock. S 67 E 5 poles to (C) a stake thence leaving original line S 17½ W 118 poles to (D) a stake in the middle of the present drive-bars thence with original line N 78 W 11 poles to the beginning. Containing ten acres more or less. We have laid off and assigned to G.C. Jessee Lot No 2 which we consider equal in value to two ninths and 2/3 of 1/9 of the entire tract bounded as follows to wit Beginning at (D) corner to Lot No 1 thence with original lines S 78 E 32¼ poles to (E) a rock on the both bank of road S 8½ E 4 poles to a sugartree below road S 15¼ E 13½ poles to an ash. N 88½ E 30 poles

to (F) a stake thence leaving original line N 6 E 7 poles to a stake on the south side of road N 82½ W 8 poles N 84½ W 7 poles S 72¼ W 1¾ poles to (G) a stake N 5½ E 115 poles to (H) a stake in a lane (and 14¼ poles from (K) a beech corner to the original survey - 3 S 68¼ E 22 poles to (I) a stake thence N 5½ E 50¼ poles to (J) a stake on the original North line and with the same S 76½ W 52¼ poles to (K) a beech original corner before mentioned N 67 W 14½ poles to (C) a stake corner to Lot N° 1 and with line of same S 17½ W 118 poles to (D) the beginning Containing 37 acres more or less. We except from this asignment (¼) one fourth acre for a family burial ground to be laid out in a convenient form around the present graves. We have laid off and asigned to the infant Rebecca A. Flanary Lot N° 3 which we regard equal in value to ⅔ of the whole tract and bounded as follows Beginning at (H) a stake in a lane Corner to Lot N° 2 and with line of same S 68 E 7 poles to (L) a stake thence S 5½ W 114½ poles to (M) on a line of Lot N° 2 and with same N 84½ W 5 poles N 72½ W 1¾ poles to (G) Corner to Lot N° 2 and with line of same N 5½ E 115 poles Containing 5 acres more or less. We have laid off and asigned to the heirs of William Flanary deceased Lot N° 4 which we regard equal in value to ⅓ of the entire tract and bounded as follows to wit: Beginning at (I) a corner to Lot N° 2 thence with line of same N 68 W 15 poles to (L) Corner to Lot N° 3 and with line of same S 5½ W 48½ poles to (N) a stake at the orchard fence S 81 E 11 poles to a stake in the middle of the present road leading from the dwelling to Public road thence N 5½ E

J. B. Lippincott Company,
Booksellers and Stationers,
Philadelphia, Pa.

12 poles N 86 E 13 poles to a stake in a great wash out or gully and with the same N 44 E 14 poles N 72 E 6¼ poles N 17¼ W 11¾ poles to a stake (O) thence leaving said drain N 68 W 20 poles to the beginning Containing 7 acres More or less - The foregoing Lot N° 4 has been purchased by the said Jo. C. Jefferson and we the aforesaid Commissioners express our belief that said sale should be Confirmed as the Sum of purchase money viz $300.00 is a fair equivalent for same. In making the aforesaid assignment of Lot N° 4 we give to Robert Litten, purchaser of the remaining undivided Lots, the privilege to obtain drinking water from spring upon said Lot N° 4 for his hands or hired laborers whilst actually engaged in work upon said remaining lands and at no other times; it not extending to household uses.

We partitioned not the remaining lands of said tract; being so advised by the heirs thereof, they having sold their interest undivided to said Robert Litten. The Deed to the same having already been executed and to which we refer as a part of our report marked "A". Therefore we give only the lines bounding the entire remaining moiety as follows -

Beginning at (F) a stake on the south original line a corner to Lot N° 2 thence with lines of same N 66 ¾ poles to a stake on the south edge of road N 82½ W 8 poles N 84½ W 2 poles to (M) corner to Lot N° 3 And with line of same N 5½ E 65 poles to (A) Corner to Lot N° 4 and

with lines of same S 8 1/2 E 11 poles to a stake in the middle of road N 5 1/2 E 12 poles N 8 E 6 1/2 poles to a stake in a great wash-out and with the same N 44 E 14 poles N 72 E 6 1/4 poles N 17 1/4 W 11 3/4 poles thence leaving drean N 68 W 20 poles to (I) a stake Corner to Lot No 2 and with line of same N 5 1/2 E 50 1/4 poles to (J) a stake on the original North line and with the same N 46 1/2 E 20 3/4 poles to a rock thence Continuing with original lines all the way around N 12 1/2 E 41 poles to a rock in the fence near a beech N 80 E 18 poles to a rock S 49 E 106 1/2 poles to a black-gum on the top of a spur S 42 W 13 poles to a white-oak on said spur N 50 W 10 poles S 30 1/2 W 133 1/2 poles to a large white-oak S 58 3/4 E 15 poles to a rock S 18 3/4 W 30 1/2 poles to a rock thence S 88 1/2 W 58 poles to the beginning Containing 94 acres more or less We think this partition was conveniently made and should be confirmed Respct submitted Nov 27th 1895

D. M. Cannical
H. C. Joslyn
W. G. Bishop
D. S Reaser
} Comrs

(2)

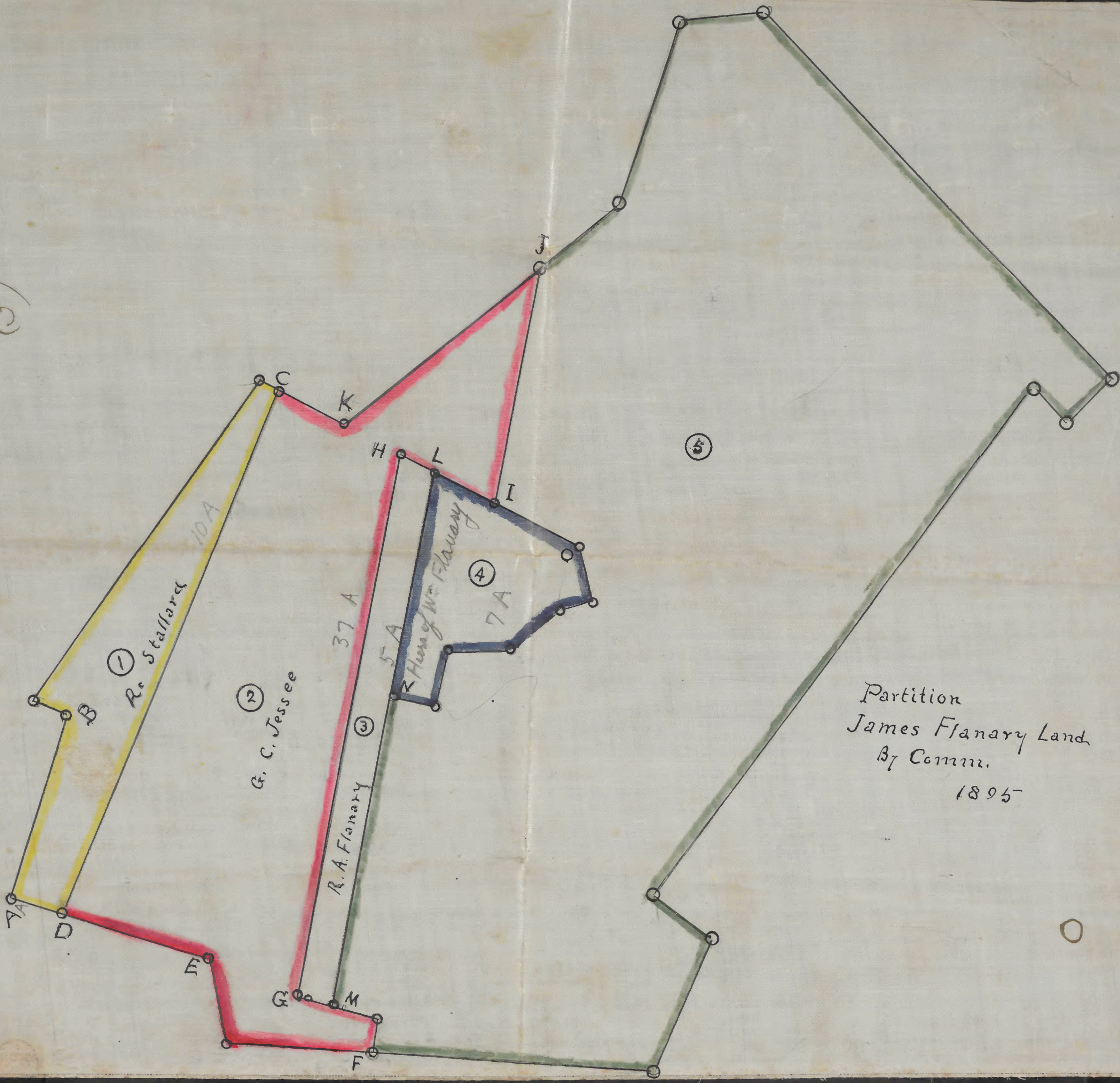
Bill of Cost
D. M. Cannicd $15.00
T. C Joslyn 4.00
W. G. Bishop 4.00
D S Reager 4.00
Chas Carnes 2.00
R. W. Ong J.P. 1.00

G. L Jessee et al
vs
Comrs report
Elkanah Hanaryetal

Filed Feby 17th 1896
A B Mumaw
Clerk

Recorded in Deed
Book 32 Page 352

(3)



Partition
James Flanary Land
By Comm.
1895-

G. C. Jessee, et als. Plaintiffs.

vs. } In Chancery.

Elkanah Flannery, et als. Defendants.

To Hon. W. L. Miller,

Judge of Circuit Court of Lee Co., Va.:

Your undersigned Commissioner begs leave to report: That he has discharged the duty required of him by your honors decree of March 7th 1899, in the above styled cause, by having executed to G. C. Jessee a deed as in said decree required, which deed is here filed marked "Deed." This March 7, 1899.

Respectfully Submitted

George M. Blankenship,

Special Commissioner.

G. C. Jessee et als.

vs. } In Chancery.

Elkanah Flanary et als.

Commissioner's report of Sale.

Filed March 7th 1899

A B Munsey Clerk

This agreement Made and entered into on this 30th day of November 1895. by and between Charles E. Flanary Elkanah Flanary - John W. Scott. J. C. Dalinger. Alonzo Flanary and Ballard Flanary by Sarah E. Flanary their Guardian of the first part and G. C. Jessee and R. E. Litton of the second part all of the County of Lee and State of Virginia, Witnesseth: That for and in Consideration of the Sum of Three hundred dollars, (Each Share) which is to be paid to the parties of the first part by the parties of the second part. The parties of the first part have this day

bargained and sold to the parties of the second part all their right title and interest in and to all the real estate that belonged to ~~##~~ James Flanery at the time of his death, lying in Lee County Va. and adjoining the lands of said R. B. Litton and others. It is understood that the price per share is Three hundred dollars, and that the parties are to pay on the costs as follows. R. B. Litton is to pay the sum of $24.00 and gets four shares on the east side of the land. L. C. Jessee is to pay one half of the costs of the depositions taken in the case of L. C. Jessee et al vs. Rebecah Flanery et al, and 4/9 of the clerks and sheriffs

~fuse, and is to pay 4/9 of the legal fee provided he cannot get it released, and the said G. C. Jones gets one more than on the west side of the farm after what was directed to be laid off to him by the Court, and the parties of the first part agree to pay the balance of the costs in the above mentioned case.

Deeds to be made and notes to be given, in settlement of the above agreement at an early day. Witness the following signatures and seals.

C. E. Flanary Seal

E Flanary Seal

John W. Scott Seal

J. C. Olinger Seal

Sallie E. Flannery Seal
by Alonzo & Ballard Flanary

R. E. Litton Seal
per L. S. Litton
Seal

G. C. Jessup Seal

Witness.
H. C. Joslyn
D. M. Cammack

Agt. Comm't.

To G. C. Jessee, A. C. Stallard and Rebecca Stallard:

Please take notice that on the 24th day of October 1895- at the Law Office of Duncan & Hyatt, in the Town of Jonesville Va. we will proceed to take the depositions of John Rivers et als. which depositions, when taken, are intended to be read as evidence in our behalf in a certain suit in Chancery now pending in the Circuit Court of Lee County Va., wherein we are defendants and you are the plaintiffs, and if from any cause the taking of said depositions be not ~~completed~~ begun on that day, or if begun, be not completed, the taking thereof will be adjourned from day to day, from time to time and from place to place until the same shall be completed.

This Oct 18th 1895-

Elkanah Flanary
C. E. Flanary
J. W. Scott & wife
J. C. Olinger & wife
By Counsel

Duncan & Hyatt
Counsel.

G. C. Jessee et als.

vs Notice

C. E. Flanary et als.

To take depositions for defendants.

Granted C. A. T. G.
by offering to
delivering a true
C. of N. to G. C.
Jessee & G. C.
Stalard & C.
Jessee Stalard
H. L. Flanary &
for W. P. Watson
1.46

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU, That you summon Nancy Scott Nee Flanary & John M Scott her husband, Mary Olinger Nee Flanary & Jo Olinger her husband, Elkanah Flanary, Charles E Flanary, Alonzo Flanary & Ballard Flanary the last two of whom are infants under the age of 21 years

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the 1st Monday in October, 189 5, to answer a bill in Chancery, exhibited against Glenn in our said court by G. C Jessee, S C Stallard & Rebecca Stallard

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the 24th day of September 189 5, and in the ~~11~~ 120th year of the Commonwealth.

A B Munsey Clerk.

G. C. Jessee et als

vs. { SUPŒNA IN CHANCERY.

Nancy Scott et als

Orr B & Ewing p. q.

To 1st Oct Rules,

Circuit Court.

Executed Sept 30, 1891 on a part by delivering a copy to Isaac Slinker & taking a copy with her bor. J. G. Slingers the defendant & leaving a copy at the dwelling of John Scott bor. and his Wife and the not being found at their dwelling & by delivering a copy to Ballard Slinger & leaving a copy bor. Alonzo Slinger J.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU, That you summon Nancy Scott nee Flanary & John H. Scott her husband, Mary Olinger nee Flanary & J. C. Olinger her husband Elkanah Flanary, Charles C. Flanary, Alonzo Flanary & Ballard Flanary, the last two of whom are infants under the age of 21 Years

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the 1st Monday in October, 189 5, to answer a bill in Chancery, exhibited against them in our said court by G. C. Jessee & C. Stallard & Rebecca Stallard

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the 24th day of September 189 5, and in the ~~11~~ 120th year of the Commonwealth.

A B Munsey Clerk.

G. W. Jessee et als

vs. { SUPŒNA
IN CHANCERY.

Nancy Scott et als

Orr B & E p. q.

To 1st Oct Rules,

Circuit Court.

Executed in part by delivering an office copy of the within Summons to Charles E. Flanary not found as the other defendants not found. This Oct 7 – 1898.

J. M. Weston D.S. for Wm P. Weston S.S.C.

Copy for C. E. Flanary

The within Summons is further executed by delivering a true copy thereof to the within named Flanary this Oct 13 – 1898. Wm P. Weston S.S.C.